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| 09/869,625      | 01/18/2002  | Francis Blary        | 15675P362           | 5783             |

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| EXAMINER |
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KEASEL, ERIC S

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| ART UNIT | PAPER NUMBER |
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3754

DATE MAILED: 08/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/869,625

Applicant(s)

BLARY ET AL.

Examiner

Eric Keasel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2003 and 04 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16 is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-15 is/are rejected.
- 7) ☒ Claim(s) 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

**DETAILED ACTION*****Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "means for deactivating the actuator when the pressure reaches the predetermined threshold" (claims 9 and 16) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. It should be noted that the specification refers to this feature on page 10, lines 10-14, as being a means for detecting that the pressure threshold has been reached and some mechanism to switch the actuator off its control air inlet and connecting the actuator to the exhaust.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Specification*

2. The Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "**means**" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The abstract of the disclosure is objected to because of the use of "means". Correction is required. See MPEP § 608.01(b).

### *Claim Rejections - 35 USC § 112*

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 7, 8, and 13 (dependent on any of claims 1-4) are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 recites the broad recitation "one action out of opening and closing", and claim 8 recites the broad recitation "one out of opening and closing". Both claims also recite "preferably closing" which is the narrower statement of the range/limitation. One of ordinary skill in the art would not clearly understand the metes and bounds of the claims because there is a question or doubt as to whether the more narrow statement is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims.

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Claim 13 recites the broad recitation "chamber", and recites "in particular a combustion or postposition [sic] chamber in an installation for treating asbestos waste" which is the narrower statement of the range/limitation (please note, it appears that postposition should be post-combustion). One of ordinary skill in the art would not clearly understand the metes and bounds of the claims because there is a question or doubt as to whether the more narrow statement is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 5/1, 6/1, 7/1, 8/1, 10/1, 11/1, 12/1, 13/1, 14/1, and 15/1 are rejected under 35 U.S.C. 102(b) as being anticipated by Fontaine (US Patent Number 3,845,932).

Fontaine discloses a safety valve (see Figs. 1 and 2) for a chamber comprising a shutter (32) mounted to slide relative to a housing frame (18) to open and close an orifice (24) connected to the chamber. Fontaine discloses the same controlled drive means as applicant (i.e. a pneumatically-actuated piston (16) acting against springs (54 and 56) to move the shutter to open (see Fig. 1) and close (see Fig. 2) the orifice). Fontaine also discloses the same release means as applicant (i.e. fluid pressure from the orifice automatically opens the shutter against the force in spring (38) when the fluid pressure reaches a predetermined threshold). The release means and

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the drive means are distinct and independent of each other and are connected to the shutter in a configuration such that they are parallel to each other.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 1-3, 5/1, 5/2, 5/3, 6/1, 6/2, 6/3, 7/1, 7/2, 7/3, 8/1, 8/2, 8/3, 10/1, 10/2, 10/3, 11/1, 11/2, 11/3, 12/1, 12/2, 12/3, 13/1, 13/2, 13/3, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Melzer (US Patent Number 3,384,101) in view of Fontaine.

Melzer discloses a safety valve for a chamber comprising a shutter (56) mounted to slide relative to a housing frame (32,34,50) to open and close an orifice (52) connected to the chamber. Melzer discloses the valve to have a sealing gasket (54) fixed to the frame that comes

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in contact with the shutter. The gasket has a diameter greater than the largest diameter of the orifice. Melzer also discloses the same release means as applicant (i.e. fluid pressure from the orifice automatically opens the shutter against the force in spring (64) when the fluid pressure reaches a predetermined threshold).

Melzer fails to disclose the controlled drive means to open and close the valve. Fontaine discloses the same controlled drive means as applicant (i.e. a pneumatically-actuated piston (16) acting against springs (54 and 56) to move the shutter to open (see Fig. 1) and close (see Fig. 2) the orifice) in a similar safety valve. Fontaine also discloses the same release means as applicant (i.e. fluid pressure from the orifice automatically opens the shutter against the force in spring (38) when the fluid pressure reaches a predetermined threshold). The release means and the drive means are connected to the shutter in a configuration such that they are distinct and independent of each other and are parallel to each other. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have used the controlled drive means and release means of Fontaine with the safety valve of Melzer in order to provide a valve that is opened and closed due to pneumatic pressure that can be supplied remotely to the valve, but also have relative motion between the piston and valve shutter so that excess fluid pressure in the line can lift the valve shutter off the valve seat when the valve is closed due to the pneumatic pressure as taught by Fontaine (see the whole document, especially column 1, lines 40-51).

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10. Claims 4, 5/4, 6/4, 7/4, 8/4, 10/4, 11/4, 12/4, and 13/4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Melzer in view of Fontaine as applied to claims 1-3 above, and further in view of Regnier (US Patent Number 4,263,935).

The modified Melzer fails to disclose the stop cage to prevent movement of the shutter beyond the cage as the valve opens. Regnier discloses a stop cage (14) built into a similar frame in a similar safety valve (although only one is shown, three stops are disclosed, see column 3, line 25). The stop cage serves as an abutment for the valve shutter in the open position. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have used the stop cage of Regnier with the safety valve of the modified Melzer in order to arrest the movement of the valve shutter in a top position as taught by Regnier (see column 3, lines 24-25).

***Allowable Subject Matter***

11. Claim 9 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

12. Claim 16 is allowed.

13. The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record does not disclose or suggest the means for deactivating the actuator (see specification, page 10, lines 10-14) when the pressure reaches the predetermined threshold (previously defined in claim 1, line 5, and claim 16, line 7), in combination with the other limitations set forth in claims 9 and 16.



***Response to Arguments***

14. Applicant's arguments filed October 28, 2003 and March 4, 2004 have been fully considered but they are not persuasive.

Applicant argues that if the limitation "the release means (46) and the drive means (48, 60) are connected to the shutter in a configuration in which they are parallel with each other" is read with "parallel" relating to the dynamics of a spring-mass-dashpot system instead of being geometrically "parallel", then Fontaine would not anticipate this limitation (and the 35 USC 103 rejections would not be proper as Fontaine teaches this limitation for those rejections). However, the claim does not recite this narrower interpretation of the limitation "parallel" and the specification has not given a special, limiting definition to the term "parallel". The broadest reasonable interpretation of the limitation "parallel" consistent with applicant's disclosure could mean parallel as related to the dynamics of a spring-mass-dashpot system, or geometrically parallel, or both. Since Fontaine clearly discloses that "the release means and the drive means are connected to the shutter in a configuration in which they are parallel [geometrically] with each other", Fontaine anticipates claim 1 (and the 35 USC 103 rejections are proper).

***Conclusion***

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Keasel whose telephone number is (703) 308-6260. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Mancene can be reached on (703) 308-2696. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Eric Keasel* 18 AUG 2004

Eric Keasel  
Patent Examiner  
Art Unit 3754